



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,585	06/07/2000	Jennifer Pearson	2043.025US1	8996

49845 7590 04/04/2007
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/EBAY
P.O. BOX 2938
MINNEAPOLIS, MN 55402

EXAMINER

NGUYEN, MAIKHANH

ART UNIT PAPER NUMBER

2176

MAIL DATE DELIVERY MODE

04/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/589,585

Applicant(s)

PEARSON ET AL.

Examiner

Maikhanh Nguyen

Art Unit

2176

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

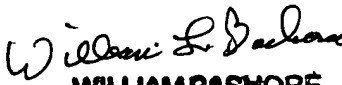
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1-15 and 19-26.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Attached.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


**WILLIAM BASHORE
PRIMARY EXAMINER**

Firstly, Applicant argues that Langheinrich does not teach “*determining a number of images to display in the markup document*” [Remarks, page 9].

In response, the examiner respectfully submits that newly cited portion of Langheinrich teaches determining a number of images to display in the markup document (*e.g., a list of display probabilities for all available advertisements in the system ... given the values of each customization variable. The list of display probabilities is encoded ... For each value of a customization variable, this list of probabilities for each advertisement ... script will first contact the database server to obtain a list of current advertisements to show in step 1302. This list contains not only the ID of the advertisement, but also the requested daily impression rate and a list of manually configured customization parameters ... The list of manually configurable customization parameters is simply an unordered list of attributes and their values together with a fractional value between and including 0.0 and 1.0. This fractional value can be set by the advertiser for each advertisement run to set minimum or maximum limits for the display probabilities the learning engine will compute; col. 7, line 61-col. 8, line 48*).

Applicant further argues that Langheinrich does not teach “*obtaining a set of random numbers, the set containing a plurality of random numbers, a number of the plurality of random numbers being equal to the determined number of images*” [Remarks, page 9].

In response, the added limitations "*the set containing a plurality of random numbers, a number of the plurality of random numbers being equal to the determined number of images*" to claim 13 which has significantly changed the scope of the claimed invention when interpreted as a whole. Therefore, it would require further consideration and/or search.

Applicant further argues that Langheinrich does not teach "*selecting, by the utility program, a predetermined number of images from a group of images, the pre-determined number being specified in the instruction*" as cited in claim 1 [Remarks, page 10].

In response, the examiner respectfully submits that Langheinrich's teaching "*The advertisement server 103 handles incoming requests from clients to deliver customized advertisements. It contacts the database server 104 in order to obtain the data relevant to make an advertisement selection. Once a selection is made, this selection will be logged with the database server. The learning system 105 periodically queries the logfiles from the database server 104 to obtain performance records of advertisements and adjusts a set of display weights accordingly. These weights are stored in the database server 104, where the advertisement server 103 can access it during advertisement selection. Advertisers can contact a maintenance server 106 that allows direct access to the advertisement information stored in the database server 104...the system can perform advertisement selection and delivery in a single process, as shown in the data flow diagram in FIG. 9B. After contacting [1] the content server 101, the corresponding script simple includes the customization parameters into the HTML image tag and returns [2] the results page to the user's web browser 102... the selection process 119 will find the embedded customization*

Art Unit: 2176

parameters to request and perform the selection after obtaining the relevant information ...the returned data [8] is handed back [9] to the advertisement server 103 and transmitted [10] to the user's web browser 102, where it can then be displayed to the user on the results page" (col.4, lines 21-41 and col.6, lines 38-63) meets the limitations as claimed by Applicant.

William L. Bashore
WILLIAM BASHORE
PRIMARY EXAMINER